

Florida

Department of Highway Safety and Motor Vehicles

Division of Motorist Services

PROCEDURE VSTL-34	SUBJECT: APPLICATION FOR CERTIFICATE OF TITLE <u>BY SECONDHAND DEALERS</u>
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DESCRIPTION AND USE:

THIS PROCEDURE IS PROVIDED TO ASSIST EMPLOYEES OF TAX COLLECTORS' OFFICES AND THE DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES IN PROCESSING APPLICATIONS FOR THE TRANSFER AND ISSUANCE OF CERTIFICATES OF TITLE TO SECONDHAND DEALERS.

I. PROVISIONS OF LAW:

Section 328.03(3), Florida Statutes, provides for the transfer of a vessel certificate of title.

Chapter 538, Florida Statutes, pertains to Secondhand Dealers who enter into pawn and buy-sell transactions. Pawnbrokers licensed under the Florida Pawnbroker Act must follow Chapter 539 of the Florida Statutes (See VSTL-32).

Section 538.16, Florida Statutes, provides for the sale or disposal of vessels by a Secondhand Dealer when a pawn or buy-sell agreement is in default.

II. GENERAL INFORMATION:

When an owner "PAWNS" a vessel for a "loan of money," or a buy-sell agreement, the vessel must be in the possession of the secondhand dealer.

The secondhand dealer may sell or dispose of the vessel for a pawn for a "loan of money" (without taking title in their name), if the vessel has not been redeemed and no payment has been made on the account for a period of 90 days. If the vessel is sold, the secondhand dealer must give the purchaser a bill of sale.

The secondhand dealer may sell or dispose of the vessel for a pawn for a "buy-sell agreement" (without taking title in their name), if the vessel has not been redeemed and no payment has been made on the account within 60 days. If the vessel is sold, the secondhand dealer must give the purchaser a bill of sale.

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III. DOCUMENTATION REQUIRED AND SPECIAL INSTRUCTIONS:

A. When a pawn for a "loan of money" is in default (the vessel has not been redeemed and no payment has been made on the account for a period of 90 days), the secondhand dealer must submit the following documentation:

1. The Florida or out-of-state certificate of title, or official proof of ownership.

NOTE: The title does not have to be completed for transfer.

2. A form HSMV 82040, Application for Certificate of Title with/without Vehicle Registration, or HSMV 82041, Application for Vehicle/Vessel Certificate of Title and/or Registration, accurately completed by the purchaser (if sold), or by the secondhand dealer, if the vessel is not sold.

NOTE: The secondhand dealer does NOT have to obtain a title in their name prior to selling the vessel.

3. A copy of the pawn ticket, showing a complete description of the vessel including the year, make, vessel identification number, the date and the following information from s. 538.16, Florida Statutes:

(1) Any personal property pawned with a pawnbroker, whether the pawn is a loan of money or a buy-sell agreement, is subject to sale or disposal if the pawn is a loan of money and the property has not been redeemed or there has been no payment on the account made for a period of 90 days, or if the pawn is a buy-sell agreement and the property has not been repurchased from the pawnbroker or there has been no payment on the account within 60 days.

(2) Every pawn ticket and receipt for such pawn shall have printed thereon a notice of the provisions of subsection (1), notice of sale or disposal, notice of intention to sell or dispose of the property without further notice, and consent to the sale or disposal. Any such sale or disposal shall terminate all liability of the pawnbroker and shall vest in the purchaser the right, title, and interest of the seller or borrower and the pawnbroker.

5. An affidavit stating the date of the last payment and that no payment has been made on the account for a period of 90 days.

6. A bill of sale from the secondhand dealer to the purchaser, if applicable. The bill of sale should state that the vessel was sold pursuant to s. 538.16, Florida Statutes.

7. Lien satisfaction(s) for any liens, as shown on the motor vehicle records of this or any other state.

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<p>8. <u>Sales tax (if sold), or if not sold, the secondhand dealer must specify on form HSMV 82040, Application for Certificate of Title with/without Registration, or form HSMV 82041, Application for Vehicle/Vessel Certificate of Title and/or Registration, "Obtained per s. 538.16, Florida Statutes, for the disposal of pawned vessels."</u></p> <p>9. <u>A Florida registration number transferred to or issued for the vessel, or a nonuse affidavit.</u></p> <p>10. <u>Title fees.</u></p> <p>B. <u>When the pawn for a "buy-sell agreement" is in default (the vessel has not been redeemed and no payment has been made on the account within 60 days), the secondhand dealer must submit the following to the tax collector's office:</u></p> <p>1. <u>The Florida or out of state certificate of title, or official proof of ownership, accurately completed for transfer showing the secondhand dealer as the purchaser.</u></p> <p>2. <u>A form HSMV 82040, Application for Certificate of Title with/without Vehicle Registration, or HSMV 82041, Application for Vehicle/Vessel certificate of Title and/or Registration, accurately completed by the purchaser (if sold), or by the secondhand dealer, if the vessel is not sold.</u></p> <p>NOTE: <u>The secondhand dealer does NOT have to obtain a title in their name prior to selling the vessel.</u></p> <p>4. <u>A copy of the buy-sell agreement, showing a complete description of the vessel including the year, make, vessel identification number, the date and the following information from s. 538.16, Florida Statutes:</u></p> <p>(1) <u>Any personal property pawned with a pawnbroker, whether the pawn is a loan of money or a buy-sell agreement, is subject to sale or disposal if the pawn is a loan of money and the property has not been redeemed or there has been no payment on the account made for a period of 90 days, or if the pawn is a buy-sell agreement and the property has not been repurchased from the pawnbroker or there has been no payment on the account within 60 days.</u></p> <p>(2) <u>Every pawn ticket and receipt for such pawn shall have printed thereon a notice of the provisions of subsection (1), notice of sale or disposal, notice of intention to sell or dispose of the property without further notice, and consent to the sale or disposal. Any such sale or disposal shall terminate all liability of the pawnbroker and shall vest in the purchaser the right, title, and interest of the seller or borrower and the pawnbroker.</u></p>	
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<p><u>5. An affidavit stating the date of the last payment and that no payment has been made on the account within 60 days.</u></p> <p><u>6. A bill of sale from the secondhand dealer to the purchaser, if applicable. The bill of sale should state that the vessel was sold pursuant to s. 538.16, Florida Statutes.</u></p> <p><u>7. Lien satisfaction(s) for any liens, as shown on the motor vehicle records of this or any other state.</u></p> <p><u>8. Sales tax (if sold), or if not sold, the secondhand dealer must specify on form HSMV 82040, Application for Certificate of Title with/without Registration, or form HSMV 82041, Application for Vehicle/Vessel Certificate of Title and/or Registration, "Obtained per s. 538.16, Florida Statutes, for the disposal of pawned vessels."</u></p> <p><u>9. A Florida registration number transferred to or issued for the vessel, or a nonuse affidavit.</u></p> <p><u>10. Title fees.</u></p> <p><u>IV. MISCELLANEOUS INFORMATION:</u></p> <p><u>A. If an owner repurchases a vessel from a secondhand dealer pursuant to a "buy-sell agreement" and sells the vessel to a new buyer, the owner must give the buyer an affidavit. The affidavit must explain why the certificate of title was assigned to the secondhand dealer, state that the transfer to the secondhand dealer is null and void and state the name of the new purchaser. This affidavit must be submitted to the license plate agency along with the certificate of title and application for title.</u></p> <p><u>B. When a secondhand dealer executes a buy-sell agreement, ownership of the vessel is transferred to the secondhand dealer. The secondhand dealer gives the owner 60 days to repurchase the vessel. A buy-sell agreement is not a loan of money; therefore, no interest is charged.</u></p> <p><u>C. If the secondhand dealer sells the vessel to a purchaser and the purchaser does not apply for title within 30 days (after the date of the bill of sale), a penalty fee would be applicable. However, if the secondhand dealer is taking title, a penalty fee is not applicable.</u></p> <p><u>D. A "Information Concerning Secondhand Dealers" page is attached as Exhibit A.</u></p> <p><u>E. A documentation check list is attached as Exhibit B.</u></p> <p><u>F. A "Definitions" page is attached as Exhibit C.</u></p> <p><u>G. See Forms Appendix for a sample of the HSMV forms referred to in this procedure.</u></p>	
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EXHIBIT A

INFORMATION CONCERNING SECONDHAND DEALERS

A secondhand dealer, as defined in Chapter 538, must be registered with the Department of Revenue. They must also obtain a local occupational license.

A secondhand dealer does two types of transactions, which are:

1. **Pawn for Loan of Money** Secondhand dealer may sell without taking title.
2. **Buy-sell Agreement** Secondhand dealer may sell without taking title.

The instruments used for the two transactions are:

- Pawn for loan of money **Pawn ticket.**
- Buy-sell Agreement **Buy-sell agreement.**

The certificate of title does not have to be signed over for a "pawn for loan of money."

The certificate of title does have to be signed over for a "buy-sell agreement."

The vessel must be in possession of the secondhand dealer.

If the transaction is a "pawn for loan of money," the vessel may be sold if it has not been redeemed and no payment has been made on the account for a period of 90 days.

If the transaction is a "buy-sell agreement," the vessel may be sold if it has not been redeemed and no payment has been made on the account for a period of 60 days.

EXHIBIT B

(SECONDHAND DEALER) PAWN FOR "LOAN OF MONEY" CHECK LIST

The secondhand dealer does not have to take title in their name prior to selling the vessel.

FORMS:

FLORIDA RECORD

_____ HSMV 82040 or 82041

_____ Florida Certificate
of Title

OUT-OF-STATE RECORD

_____ HSMV 82040 or 82041

_____ Out-of-state proof of ownership

NOTE: Title does not have to be completed for transfer.

_____ Copy of the pawn ticket

_____ Affidavit stating no payment has been made for a period of 90 days.

_____ A bill of sale from the secondhand dealer to the purchaser, if applicable. The bill of sale should state that the vessel was sold pursuant to s. 538.16, Florida Statutes.

_____ Sales tax (if sold), or if not sold, the secondhand dealer must specify on form 82040 or 82041, "Obtained per s. 538.16, Florida Statutes, for the disposal of pawned vessels."

_____ A Florida registration number transferred to or issued for the vessel, or a nonuse affidavit.

_____ Title fees.

(SECONDHAND DEALER) "BUY-SELL AGREEMENT" CHECK LIST

The secondhand dealer does not have to take title in their name prior to selling the vessel.

FORMS:

FLORIDA RECORD

_____ HSMV 82040 or 82041

_____ Florida Certificate
of Title

OUT-OF-STATE RECORD

_____ HSMV 82040 or 82041

_____ Out-of-state proof of ownership

NOTE: Title must be completed for transfer.

_____ Copy of the buy-sell agreement.

_____ Affidavit stating no payment has been made within 60 days.

_____ A bill of sale from the secondhand dealer to the purchaser, if applicable. The bill of sale should state that the vessel was sold pursuant to s. 538.16, Florida Statutes.

_____ Sales tax (if sold), or if not sold, the secondhand dealer must specify on form 82040 or 82041, "Obtained per s. 538.16, Florida Statutes, for the disposal of pawned vessels."

_____ A Florida registration number transferred to or issued for the vessel, or a nonuse affidavit.

_____ Title fees.

EXHIBIT C

DEFINITIONS

BAILOR

A person who delivers personal property in bailment.

BAILMENT

The delivery of personal property that may be returned to the bailor after being held for some purpose.

"PAWN" - means either of the following:

BUY-SELL AGREEMENT

An agreement whereby a purchaser agrees to hold property for a specified period of time and allows the seller exclusive right to repurchase the property. A buy-sell agreement is not a loan of money.

LOAN OF MONEY

A written or oral bailment of personal property as security for an engagement or debt, redeemable on certain terms and with the implied power of sale on default.

PLEDGE

Any pawn or buy-sell agreement.

SECONDHAND DEALER

Any person, corporation, or other business organization or entity which is engaged in the business of purchasing, consigning, or pawning secondhand goods. The term also means pawnbrokers (not licensed under the Florida Pawnbrokers Act, Chapter 539, Florida Statutes), jewelers, precious metals dealers, garage sale operators, second hand stores and consignment shops.

SECONDHAND GOODS

Personal property previously owned or used, which is purchased, consigned or pawned as used property.

TRANSACTION

Any purchase, consignment or pawn of secondhand goods by a secondhand dealer.